

Remarks

35 U.S.C. § 112, Second Paragraph

Claims 1-4 have been rejected under 35 U.S.C. §112, second paragraph, as allegedly being unpatentable for being indefinite. Specifically, the Examiner has questioned how a compound can be both an agonist and an antagonist. The compounds that are part of the present invention are members of a unique class of compounds that are called estrogen agonists/antagonists, and now more commonly referred to as selective estrogen receptor modulators (SERMs). It is well understood by those skilled in the art that compounds that are estrogen agonists/antagonists or SERMs act as agonists of the estrogen receptor in some tissues and in other tissues act as antagonists of the estrogen receptor. Thus, a compound can have both agonist and antagonist activity depending on the tissue in which the compound is present. This dual agonist/antagonist nature is what provides for the compound's unique therapeutic properties. A well known estrogen agonist/antagonist that is presently on the market for the treatment and prevention of osteoporosis is Evista® (raloxifene), which is marketed by Eli Lilly & Co. Because the term estrogen agonist/antagonist is well known to those skilled in the art, applicant respectfully requests that this rejection be withdrawn.

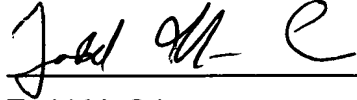
Obviousness-Type Double Patenting

Claims 1-4 have been rejected under the judicially created doctrine of obviousness-type double patenting over claims 1-11 of U.S. Patent No. 6,455,572, which is commonly owned with the present application. Attached hereto is a terminal disclaimer. In view of the terminal disclaimer, applicant believes that this rejection has been overcome and respectfully requests that the rejection be withdrawn. Applicant notes that a re-issue application of U.S. Patent No. 6,455,572 was filed on May 30, 2003, which was given U.S. application number 10/448,751. An information disclosure statement is being filed herewith to make the re-issue application of record in the present application.

Applicants believe that, in view of the remarks made above, this application is in condition for allowance. Reconsideration and allowance of claims 1-4 is respectfully requested.

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